

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

LUIS ESQUIVEL-BOLANOS,

Defendant.

CASE NO: 2:23-CR-0047-TOR-2

ORDER DENYING MOTION TO
DISMISS

BEFORE THE COURT is Defendant's Motion to Dismiss with Prejudice for Grand Jury Abuse and Leading. ECF No. 211. The motion is submitted for hearing without oral argument. The Court has reviewed the record and the files herein, the completed briefing, and is fully informed.

On April 18, 2023, Defendant was charged in an Indictment with two crimes; Conspiracy to Distribute 50 Grams or More of Actual Methamphetamine and 400 Grams or more of Fentanyl in violation of 21 U.S.C. §§ 846; and Distribution of 50 Grams or more of Actual Methamphetamine in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A)(viii). ECF No. 1.

1 Defendant has now filed a motion to dismiss the Indictment because the
2 United States used “leading questions” to the witness before the Grand Jury and he
3 was “misidentified as being able to fluently speak and understand the English
4 language.” ECF No. 211.

5 First, leading questions are allowed in grand jury proceedings. Federal Rule
6 of Evidence 1101(d)(2) provides that leading questions are not prohibited in grand
7 jury proceedings. Second, the misidentification of Defendant has no material
8 bearing on the charges for which he was indicted. Counsel for the Government
9 discovered their error and notified defense counsel. This mistake did not have a
10 material effect on the two counts for which Defendant was indicted.

11 Finally, as of May 9, 2024, the United States has now obtained a
12 Superseding Indictment making Defendant’s current motion to dismiss moot. ECF
13 No. 218.


14 **THEREFORE, IT IS HEREBY ORDERED:**

15 Defendant's Motion to Dismiss, ECF No. 211, is **DENIED**.

16 The District Court Executive is directed to enter this order and provide
17 copies to counsel.

18 DATED May 17, 2024.




THOMAS O. RICE
United States District Judge